

MT LEGISLATIVE HISTORY

Chapter 508 1977

Bill H S 9

Original bill & hist. ☒ C

H. Committee on Taxation

S. Committee on Judiciary

Hearing Date(s) Feb 01 ☒ C

Hearing Date(s) Jan 11 ☒ C

Feb 02 ☒ C

Jan 15 ☒ C

 C

 C

 C

 C

Date Out Feb 02 ☒ C

Jan 12 ☒ C

Did this bill originate in an interim committee? Yes No

Committee

Report

1 SENATE BILL NO. 9
2 INTRODUCED BY GRAHAM
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
5 REVISION OF LAWS RELATING TO GAMBLING."
6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
8 Section 1. Section 62-706, R.C.M. 1947, is amended to
9 read as follows:
10 "62-706. Gambling on cash basis. (1) In every ~~gambling~~
11 ~~game conducted pursuant to any gambling law of the state~~
12 authorized card game the consideration paid for the chance
13 to play shall be strictly cash. Every participant must
14 present the money with which he intends to play the ~~gambling~~
15 game at the time the game is played. No check, credit card,
16 note, ~~I.O.U.~~, I.O.U., or other evidence of indebtedness ~~shall~~
17 may be offered or accepted as part of the price of
18 participating in a ~~gambling card~~ game or as payment of a
19 ~~gambling debt incurred therein.~~
20 (2) No action based on such a ~~gambling~~ debt is
21 maintainable in a court of this state."
22 Section 2. Section 62-707, R.C.M. 1947, is amended to
23 read as follows:
24 "62-707. Local governing bodies may issue licenses.
25 (1) Any city, town, or county may issue licenses for the

1 ~~gambling~~ games provided for in this act to be conducted on
2 premises which have been licensed for the sale of liquor,
3 beer, food, cigarettes, or any other consumable products.
4 Within the cities or towns, such licenses may be issued by
5 the city or town council or commission. Licenses for games
6 conducted on premises outside the limits of any city or town
7 may be issued by the county commissioners of the respective
8 counties. When a license has been required by any city,
9 town, or county, no ~~gambling~~ game as provided for in this
10 act shall be conducted on any premises which have been
11 licensed for the sale of liquor, beer, food, cigarettes, or
12 any other consumable product without such license having
13 first been obtained.
14 (2) Any governing body may charge an annual license
15 fee for each license so issued under this act, which license
16 fee, if any, shall expire on June 30 of each year, and such
17 fee shall be prorated.
18 (3) Any license issued pursuant to this act shall be
19 deemed to be a revocable privilege, and no holder thereof
20 ~~shall may~~ acquire any vested rights therein or thereunder."
21 Section 3. Section 62-708, R.C.M. 1947, is amended to
22 read as follows:
23 "62-708. Governing body may establish regulations. The
24 governing body authorized to issue gambling licenses
25 pursuant to this act ~~shall have the authority to may~~

establish by ordinance or resolution, regulations governing the qualifications for and the issuing, suspension, and revocation of such gambling licenses. These regulations, in addition to any other requirements, shall provide that no license ~~shall~~ may be issued to:

1- (1) * a person who has been convicted of being the keeper, or is keeping a house of ~~all same~~ prostitution;

2- (2) * a person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality, under the laws of the federal government or any state of the United States;

3- (3) * a person whose license issued under this act has been revoked for cause;

4- (4) * a person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;

5- (5) * a person who is not a citizen of the United States and who has not been a resident of the state of Montana for at least ~~one~~ (1) year immediately preceding the filing of the application for license;

6- (6) * a person who is not the owner and operator of the business. Additional regulations may also be adopted for the purpose of the protection of the public health, welfare, and safety of the citizens of the state of Montana and to assure compliance with the intent of this act."

Section 4. Section 62-709, R.C.M. 1947, is amended to read as follows:

"62-709. Minors may not participate. No person under the age of ~~eighteen~~ (18) years ~~shall~~ may be permitted to participate in any card game ~~or games of chance~~ held, operated, or conducted pursuant to this act."

Section 5. Section 62-710, R.C.M. 1947, is amended to read as follows:

"62-710. Cheating unlawful. It shall be unlawful to conduct or participate in a gambling card game authorized by this act ~~or any other gambling law~~ in any manner which results in cheating, misrepresentation, or other such disreputable tactics which distract from a fair and equal chance for all participants or which otherwise affects the outcome of the gambling game."

Section 6. Section 62-713, R.C.M. 1947, is amended to read as follows:

"62-713. ~~Venue~~ Jurisdiction. ~~Venue Jurisdiction~~ for all cases involving violations of this act is in the district court."

Section 7. There is a new R.C.M. section that reads as follows:

Bingo and raffles authorized. Conducting or participating in games of chance as defined in 62-716 and in accordance with the provisions of this act is lawful.

1 Section 8. Section 62-719, R.C.M. 1947, is amended to
2 read as follows:

3 "62-719. Local governing bodies may issue licenses.
4 (1) Any city, town, or county may issue licenses for the
5 ~~gambling~~ games of chance provided for in this act to be
6 conducted on premises which have been licensed for the sale
7 of liquor, beer, food, cigarettes, or any other consumable
8 products. Within the cities or towns, such licenses may be
9 issued by the city or town council or commission. Licenses
10 for games conducted on premises outside the limits of any
11 city or town may be issued by the county commissioners of
12 the respective counties. When a license has been required by
13 any city, town, or county, no ~~gambling~~ game of chance as
14 provided for in this act ~~shall~~ may be conducted on any
15 premises which have been licensed for the sale of liquor,
16 beer, food, cigarettes, or any other consumable product
17 without such license having first been obtained.

18 (2) Any governing body may charge an annual license
19 fee for each license so issued under this act, which license
20 fee, if any, shall expire on June 30 of each year, and such
21 fee shall be prorated.

22 (3) Any license issued pursuant to this act shall be
23 ~~deemed~~ considered to be a revocable privilege, and no holder
24 thereof ~~shall~~ may acquire any vested rights therein or
25 thereunder."

1 Section 9. Section 62-720, R.C.M. 1947, is amended to
2 read as follows:

3 "62-720. Governing body may establish regulations. (1)
4 The governing body authorized to issue gambling licenses
5 pursuant to this act ~~shall have the authority to may~~
6 establish by ordinance or resolution regulations governing
7 the qualifications for the ~~issuing~~ issuance, suspension, and
8 revocation of such gambling licenses. These regulations, in
9 addition to any other requirements, shall provide that no
10 license ~~shall~~ may be issued to:

11 ~~(1)(a)~~ (1)(a) * a person who has been convicted of being the
12 keeper or is keeping a house of ~~ill fame~~ prostitution;

13 ~~(2)(b)~~ (2)(b) * a person who has been convicted of pandering
14 or other crime or misdemeanor opposed to decency and
15 morality, under the laws of the federal government or any
16 state of the United States;

17 ~~(3)(c)~~ (3)(c) * a person whose license issued under this act
18 has been revoked for cause;

19 ~~(4)(d)~~ (4)(d) * a person who at the time of application for
20 renewal of any license issued hereunder would not be
21 eligible for such license upon a first application;

22 ~~(5)(e)~~ (5)(e) * a person who is not a citizen of the United
23 States and who has not been a resident of the state of
24 Montana for at least ~~one~~ (1) year immediately preceding the
25 filing of the application for license;

1 ~~(6)~~ (f) A person who is not the owner and operator of
2 the business.

3 (2) Additional regulations may also be adopted for the
4 purpose of the protection of the public health, welfare and
5 safety of the citizens of the state of Montana and to assure
6 compliance with the intent of this act."

7 Section 10. Section 62-724, R.C.M. 1947, is amended to
8 read as follows:

9 "62-724. Gambling on cash basis. (1) In every gambling
10 game of chance ~~conducted pursuant to any gambling law of the~~
11 ~~state~~ the consideration paid for the chance to play shall be
12 strictly cash. Every participant must present the money with
13 which he intends to play the ~~gambling~~ game at the time the
14 game is played. No check, credit card, note, ~~I.O.U.~~ I.O.U., or
15 other evidence of indebtedness shall be offered or accepted
16 as part of the price of participation in a ~~gambling~~ such
17 game or as payment of a ~~gambling~~ debt incurred therein.

18 (2) No action based on such a ~~gambling~~ debt is
19 maintainable in a court of this state."

20 Section 11. Section 62-725, R.C.M. 1947, is amended to
21 read as follows:

22 "62-725. Cheating unlawful. It shall be unlawful to
23 conduct or participate in a ~~gambling~~ game of chance
24 authorized by this act ~~or any other gambling law~~ in any
25 manner which results in cheating, misrepresentation, or

1 other such disreputable tactics which distract from a fair
2 and equal chance for all participants or which otherwise
3 affects the outcome of the ~~gambling~~ game."

4 Section 12. There is a new R.C.M. section that reads
5 as follows:

6 Sports pools authorized. Conducting or participating in
7 sports pools as defined and governed in this act is lawful.

8 Section 13. Section 62-729, R.C.M. 1947, is amended to
9 read as follows:

10 "62-729. Gambling on cash basis. (1) In every gambling
11 ~~game conducted pursuant to any gambling law of the state~~
12 sports pool the consideration paid for the chance to play
13 shall be strictly cash. Every participant must present the
14 money with which he intends to play ~~the gambling game~~ at the
15 time the ~~game pool~~ is ~~played~~ entered. No check, credit card,
16 note, ~~I.O.U.~~ I.O.U., or other evidence of indebtedness shall be
17 offered or accepted as part of the price of participating in
18 a ~~gambling game or as payment of a gambling debt pool~~.

19 (2) No action based on a ~~gambling~~ debt incurred in a
20 sports pool is maintainable in a court of this state."

21 Section 14. Section 62-730, R.C.M. 1947, is amended to
22 read as follows:

23 "62-730. Minors may not participate. No person under
24 the age of ~~eighteen~~ (18) years shall may be permitted to
25 participate in any ~~game or games of chance~~ sports pool held,

1 operated, or conducted pursuant to this act."

2 Section 15. Section 62-731, R.C.M. 1947, is amended to
3 read as follows:

4 "62-731. Cheating unlawful. It shall be unlawful to
5 conduct or participate in a ~~gambling game~~ sports pool
6 authorized by this act ~~or any other gambling law~~ in any
7 manner which results in cheating, misrepresentation, or
8 other such disreputable tactics which distract from a fair
9 and equal chance for all participants or which otherwise
10 affects the outcome of the ~~gambling game pool~~."

11 Section 16. Section 62-735, R.C.M. 1947, is amended to
12 read as follows:

13 "62-735. ~~Venue Jurisdiction. Venue Jurisdiction~~ for all
14 violations of this act is in the district court."

15 Section 17. Section 94-8-301, R.C.M. 1947, is amended
16 to read as follows:

17 "94-8-301. Lottery defined. A lottery is any scheme
18 for the disposal or distribution of property by chance,
19 among persons who have paid or promised to pay any valuable
20 consideration for the chance of obtaining such property or a
21 portion of it, or for any share or interest in such
22 property, upon any agreement, understanding, or expectation
23 that it is to be distributed or disposed of by lot or
24 chance, whether called a lottery, ~~raffle~~, or gift
25 enterprise, or by whatever name the same may be known."

1 Section 18. Section 94-8-302, R.C.M. 1947, is amended
2 to read as follows:

3 "94-8-302. ~~Drawings for prizes or premiums not~~
4 ~~contemplated by act, when Application.~~ This ~~act part~~ shall
5 not apply to the provisions of 62-715 through 62-726 or to
6 the giving away of cash or merchandise attendance prizes or
7 premiums by public drawings at agricultural fairs or rodeo
8 associations in this state, and the county fair
9 commissioners of agricultural fairs or rodeo associations in
10 this state may give away at such fairs cash or merchandise
11 attendance prizes or premiums by public drawings."

12 Section 19. Section 94-8-401, R.C.M. 1947, is amended
13 to read as follows:

14 "94-8-401. Gambling ~~games~~ prohibited — penalty —
15 ~~license fees for card tables. Every person who deals, or~~
16 ~~carries on, opens or causes to be opened, or who conducts,~~
17 ~~or causes to be conducted, operates or runs, either as~~
18 ~~principal, agent, owner or employee, whether for hire, or~~
19 ~~not, any game of monte, dodo, fan tan, tan, studhorse~~
20 ~~poker, craps, seven and a half, twenty one, faro, roulette,~~
21 ~~pangani or pangene, hokey poker, draw poker, or the game~~
22 ~~commonly known as round the table poker, or any banking or~~
23 ~~percentage game, or any game commonly known as sure thing~~
24 ~~game, or any game of chance played with cards, dice or any~~
25 ~~device whatsoever, or who runs or conducts or causes to be~~

~~run or conducted, or keeps any slot machine, punchboard, or~~
~~other similar machine or device, or permits the same to be~~
~~run or conducted for money, checks, credits, or any~~
~~representative of value, or any property or thing~~
~~whatsoever, or any person owning or in charge of any cigar~~
~~store, drugstore, or other place of business, or any place~~
~~where drinks are sold or served, who permits any of the~~
~~games prohibited in this section to be played, in or about~~
~~such cigar store, drugstore, or other place of business, or~~
~~permits any slot machine, punchboard, or similar device to~~
~~be kept therein, or any person or persons who conduct any~~
~~bucketshop where stocks or securities of any kind are sold~~
~~on margins, and every person who plays or bets at or against~~
~~said prohibited games or devices, except as hereinafter~~
~~provided, is guilty of a misdemeanor and shall be punishable~~
~~by a fine of not less than one hundred dollars (\$100.00),~~
~~nor more than one thousand dollars (\$1,000.00), and may be~~
~~imprisoned for not less than three (3) months, nor more than~~
~~one (1) year, or by both such fine and imprisonment;~~
~~[provided, however, that it shall be lawful for cigar~~
~~stores, fraternal organizations, charitable organizations,~~
~~drugstores and other places of business, upon the payment of~~
~~a license fee therefor to the county treasurer in the sum of~~
~~ten dollars (\$10.00) annually per table used or operated in~~
~~such place of business, to maintain and keep for the use and~~

~~pleasure of their customers and patrons, card tables and~~
~~cards with which and at which such games as rummy, whist,~~
~~bridge whist, blackjack, euchre, pinochle, pangene or~~
~~pangeni, seven up, hearts, freeze out, casino, solo,~~
~~cribbage, five hundred, penic ante, dominos, high five and~~
~~checkers may be played for pastime and amusement by~~
~~customers who are not minors, and for the maintenance of~~
~~which a charge may be made, to be paid by the users by the~~
~~purchase of trade checks which must be redeemable in~~
~~merchandise at the going retail price of such merchandise,~~
~~which is the stock in trade of such business; and that~~
~~places of business may, upon the payment of a license fee~~
~~therefor to the county treasurer in the sum of ten dollars~~
~~(\$10.00) annually, exhibit for use and sale to all customers~~
~~not minors, trade stimulators, such as pull boards and~~
~~ticket boards, where each board so used returns to the owner~~
~~or business not to exceed the going retail price of the~~
~~goods disposed of and sold and disposed of through the use~~
~~of the same, and which goods sold and disposed of through~~
~~the use of the same must not be other than the goods~~
~~constituting the usual stock in trade of the business using~~
~~the same.] Except as otherwise provided by law, a person who~~
~~engages in gambling in any form with cards, dice, or other~~
~~implements or devices of any kind wherein anything valuable~~
~~is wagered upon the outcome or who keeps any establishment,~~

place, equipment, or apparatus for such gambling or any agents or employees for such purpose is guilty of a misdemeanor and is punishable by a fine of not less than \$100 or more than \$1,000 or imprisonment not less than 3 months or more than 1 year or by both such fine and imprisonment."

Section 20. Section 94-8-404, R.C.M. 1947, is amended to read as follows:

"94-8-404. Possession of gambling implements prohibited. Any person who has in his possession, or under his control, or who permits to be placed, maintained, or kept in any room, space, inclosure, or building, owned, leased, or occupied by him, or under his management or control, any faro box, faro layout, roulette wheel, roulette table, crap table, ~~slot machine~~, or any machine or apparatus of the kind mentioned in ~~the preceding section of this act~~, 94-8-401 is punishable by a fine of not less than ~~one hundred nor \$100 or~~ more than ~~one thousand dollars, \$1,000~~ and may be imprisoned for not less than ~~three 3~~ months ~~nor~~ or more than ~~one~~ 1 year in the discretion of the court, provided, ~~however~~, that this section shall not apply to a public officer, or to a person coming into possession thereof in or by reason of the performance of an official duty and holding the same to be disposed of according to law."

Section 21. Section 94-8-411, R.C.M. 1947, is amended to read as follows:

"94-8-411. Duty of magistrate to retain gambling implement or apparatus for trial. The magistrate before whom any machine, apparatus, or instrument is brought pursuant to ~~the preceding section 94-8-410~~ must, if there ~~be is~~ a prisoner and if he ~~shall hold~~ holds such prisoner, cause the machine, apparatus, or instrument to be delivered to the county attorney to be used as evidence on the trial of such prisoner. If there ~~be is~~ no prisoner, or if the magistrate does not hold the prisoner, ~~he the magistrate~~ must cause the immediate and public destruction of the machine, apparatus, or instrument in ~~the his own~~ presence ~~of said magistrate~~. No person owning or claiming to own any such machine, apparatus, or instrument so destroyed, ~~shall have~~ has any right of action against any person or against the state, county, or city for the value of such article, or for damages. It ~~shall be~~ is the duty of the county attorney to produce such articles in court on the trial of the case. It ~~shall be~~ is the duty of the trial court, after the disposition of the case, and whether the defendant ~~be is~~ convicted, acquitted, or fails to appear for trial, to cause the immediate and public destruction of any such article by the sheriff or any other officer or person designated by the court."

1 Section 22. Section 94-8-413, R.C.M. 1947, is amended
2 to read as follows:

3 "94-8-413. Authority to break and enter buildings
4 where games are probably being played. Every sheriff,
5 constable and public peace officer, having probable cause to
6 believe that any room, tent, or apartment is being used as a
7 room, tent, or apartment for the playing or conducting of
8 any of the games mentioned in this act, ~~shall have authority~~
9 ~~to~~ may break open any door, or opening into any such room,
10 tent, or apartment, with or without a warrant of arrest, for
11 the purpose of arresting the offenders against this act."

12 Section 23. Section 94-8-422, R.C.M. 1947, is amended
13 to read as follows:

14 "94-8-422. Lessor of buildings used for gambling
15 purposes treated as principal. Whenever premises are
16 occupied for the doing of any of the things, or running any
17 of the games prohibited by this ~~act~~ part, the lease or
18 agreement under which they are so occupied shall be
19 absolutely void at the instance of the lessor, who may at
20 any time obtain possession by civil action, or by action of
21 ~~forcible unlawful~~ detainer, ~~and if~~ If any person lease
22 leases premises for any such purpose, or knowingly permits
23 them to be used or occupied for such purpose or purposes,
24 or, knowing them to be so occupied or used, fails
25 immediately to prosecute, in good faith an action or

1 proceeding for the recovery of the premises, such lessor
2 shall be considered in all cases, civil and criminal, as a
3 principal in running the games or doing the things run or
4 done in such building, in violation of this ~~act~~ part, and
5 shall be dealt with and punished accordingly."

6 Section 24. Section 94-8-424, R.C.M. 1947, is amended
7 to read as follows:

8 "94-8-424. Ordinances concerning gambling in conflict
9 ~~with this act void. Upon the passage of this act, all~~
10 ~~ordinances and parts of ordinances of cities and towns in~~
11 ~~this state regarding gambling and gambling houses shall be~~
12 ~~inoperative and void, and thereafter no~~ No ordinance
13 regarding gambling or gambling houses ~~shall~~ may be passed by
14 any city or town except in compliance with 62-701 through
15 62-736."

16 Section 25. Section 94-8-429, R.C.M. 1947, is amended
17 to read as follows:

18 "94-8-429. Slot machine defined. A slot machine is
19 ~~hereby~~ defined as a machine operated by inserting a coin,
20 token, chip, ~~or~~ trade check, or paper currency therein by
21 the player and from the play of which he obtains, or may
22 obtain, money, checks, chips, ~~or~~ tokens, or paper currency
23 redeemable in money. Merchandise vending machines where the
24 element of chance does not enter into their operation are
25 not within the provisions of this ~~act~~ part."

1 Section 26. Section 94-8-430, R.C.M. 1947, is amended
2 to read as follows:

3 "94-8-430. Person or persons defined. In addition to
4 their ordinary meaning, the word "person" or "persons," as
5 used in this ~~act part~~, ~~shall include~~ includes both natural
6 and artificial persons and all partnerships, corporations,
7 associations, clubs, fraternal orders, and societies,
8 including religious, fraternal, and charitable
9 organizations."

10 Section 27. Repealer. Sections 84-5703 through
11 84-5719, 94-8-402, 94-8-403, 94-8-425, 94-8-426, and
12 94-8-427, R.C.M. 1947, are repealed.

-End-

TAXATION COMMITTEE

45TH Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 9	General revision of laws relating to gambling.	1/24	Graham	2/1	BE CONCURRED IN	2/2
SB 79	To exempt passenger autos from requirements for special fuel dealers' license; amend 84-1833.	1/26	Regan	3/7	BE CONCURRED IN	3/8
SB 65	To exempt building and appurtenant land of certain community service organizations from property taxation.	1/28	Turnage	3/8	AS AMENDED BE CONCURRED IN	3/30
SB 100	Amend sections 84-4939 & 84-4940 relating to estimated tax by specifying no penalty provisions.	2/1	Turnage	3/11	BE CONCURRED IN	4/4
SB 118	Change first & last meeting date for co. tax appeals boards, terms of appointment of co. board members, extending session, changing date for transmittals; amend secs.	2/1	McOmber	3/11	AS AMENDED BE CONCURRED IN	3/22
SB 87	Provide for deduction of corporate charitable contributions & gifts in computing net income for corp. license tax; amend 84-1502.	2/3	Lowe	3/11	NOT BE CONCURRED IN	3/29

Montana Legislative Council

State Capitol

Helena, 59601

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LC 0007

1977 Legislature
Code Commissioner Bill - Summary

Senate Bill No. 9

FOR THE GENERAL REVISION OF LAWS RELATING TO GAMBLING

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 62-706. "Gambling games" is undefined in the code, and it is unclear as to what it applies, especially since the term is used loosely with respect to all three types of authorized games, i.e., card games, bingo and raffles, and sports pools. Because each of the three acts establishing the above authorized games is an autonomous unit and sections in each act exactly duplicate sections in the other acts, it was felt that it would be best to replace "gambling games" with the respective game concerned, each of which is specifically defined in its respective act. Then there could be no confusion as to the definition of "gambling game", and the sections would not appear to merely duplicate each other. Hence "gambling game" in this section is changed to "authorized card game".

Section 2. 62-707. Same change as in section 1.

Section 3. 62-708. Changed "house of ill fame", which is undefined in the code, to "house of prostitution", prostitution being defined in the criminal code.

Section 4. 62-709. Same change as section 1.

Section 5. 62-710. Same change as section 1.

Section 6. 62-713. Changed "venue" to "jurisdiction" to correct apparent error.

Section 7. The act concerning bingo and raffles defines those games and specifies how they shall be conducted, implying that such games are authorized. However, nowhere does the law say specifically that such games are authorized. This new section gives such authorization.

Section 8. 62-719. Changed "gambling games" to "games of chance", defined in 62-716 as bingo or raffles. See explanation of section 1.

Section 9. 62-720. Changed "house of ill fame" to "house of prostitution". See section 3 explanation.

Section 10. 62-724. Changed "gambling game" to "games of chance". See section 1 explanation.

Section 11. 62-725. Changed "gambling game" to "game of chance". See section 1 explanation.

Section 12. Just as bingo and raffles are not specifically authorized, neither are sports pools specifically authorized. This new section gives that authority.

Section 13. 62-729. Changed "gambling game" to "sports pool". See section 1 explanation.

Section 14. 62-730. Changed "gambling game" to "sports pool". See section 1 explanation.

Section 15. 62-731. Changed "gambling game" to "sports pool". See section 1 explanation.

Section 16. 62-735. Changed "venue" to "jurisdiction" to correct apparent error.

Section 17. 94-8-301. Since raffles are specifically authorized in 62-715 through 62-726, the reference in this section to "raffles" has been deleted, even though lottery, which means the same thing, has been left. This change is not all-important, as 94-8-302 is being amended to specifically exempt the games under the bingo and raffles act from the category of illegal lotteries under 94-8-301 et. seq. However, such change might avoid possible argument over the legal definition of a "raffle" -- whether a raffle is that defined in 62-716(1)(b) or 94-8-301. The definitions are basically consistent.

Section 18. 94-8-302. Amended this section to specifically exclude 62-715 through 62-726, the bingo and raffles act, from the application of the illegal lotteries act, and also changed this "act" (Ch. 36, L. 1935) to this "part"

(94-8-301 et. seq.). 94-8-302 was not part of the same act as the other sections in the part, however the exemptions it creates are definitely exemptions from the rest of the part. This is indicated in that 94-8-301 was amended in the same bill in which 94-8-302 was enacted, showing that this "part", rather than that 1935 act, was intended.

Section 19. 94-8-401. This is an 1895 statute which has been superseded to some degree by a later slot machine act (94-8-428 through 94-8-431) and by the authorized card games act (62-703(2)). Much of the section (that section in brackets) has been held unconstitutional under the 1889 constitution prohibiting gambling. Under Woodahl v. District Court, 511 P.2d 318, 162 Mont. 283 (1973) it is not revived by enactment of new constitution which would permit such gambling. Grammatically the section is a nightmare. A completely rewritten version is offered, which is a blanket prohibition of gambling with the exception of those games otherwise authorized by law. Although greatly simplified, this is basically the status of the law at the present time, albeit by implication, with the authorized card games act being given effect as an exception to 94-8-401.

Should the legislature not desire to rewrite the section the following changes at least are needed:

- a) An exception clause to exempt 62-701 through 62-736 should be added.
- b) The references to studhorse poker, pangen, or pangene, draw poker, round the table poker, and slot machines should be deleted. (See 62-703(2), 94-8-428 through 94-8-431.)
- c) The material in brackets should be deleted.

Section 20. 94-8-404. The reference to slot machines has been deleted, since 94-8-428 through 94-8-431 supersedes.

Section 21. 94-8-411. The second sentence is ambiguous as to who is to destroy the gambling apparatus, whether the magistrate, the county attorney, or the former prisoner. Apparently the "he" refers to "the magistrate", as any destruction of property should be done only at the order of a court. Changed "he" to "the magistrate".

Section 22. 94-8-413. Amended "public officer", which is undefined, to "peace officer", defined in 94-2-101(43). As indicated in 94-8410 a "public officer" seems to be one authorized to make arrests - hence equivalent to our current "peace officer".

Section 23. 94-8-422. The reference to "forcible detainer" appears inappropriate in light of 93-9702 which defines "forcible detainer" as the forceful or violent unlawful keeping of property. The appropriate reference seems to be "unlawful detainer", as defined in 93-9703. The section is amended accordingly.

Section 24. 94-8-424. The first half of the section is temporary and will not be recodified. The last half, which precludes city ordinances regarding gambling needs a proviso or exception in the case of card games, bingo, or raffles authorized by 62-701 through 62-726 since sections 62-707, 62-708, 62-719 and 62-720 authorize cities to license and regulate those gambling activities.

Section 25. 94-8-429. Definition of slot machine is amended to include a machine operated by inserting paper currency as well as the "coin, token, chip, or trade check" mentioned in the section now.

Section 26. 94-8-430. Changed "act" to "part" to make definition of "person" apply to entire part (94-8-401 et. seq.) rather than to 94-8-428 through 94-8-431, the sections which comprise "this act".

Section 27. Repealers.

84-5703 through 84-5717. These statutes authorizing taxation of punch board and trade stimulators were declared unconstitutional in State v. Tursch, 127 Mont. 504. The sections are specifically repealed.

84-5718, 84-5719. These sections refer to 84-5701 and 84-5702 which have been repealed. The sections have no application.

94-8-402, 94-8-403. These sections (and the part of 94-8-401 in brackets) were part of a 1937 act enacted under the old Montana Constitution prohibiting gambling. The act was declared unconstitutional in State ex rel Harrison v. Denniff, 126 Mont. 109 (1952). The legislature, however, refused or neglected to specifically repeal these sections. In 1973 it was argued in Woodahl v. District Court, 162 Mont. 283 (1973), that the new 1972 Constitution, in permitting gambling under certain circumstances operated to revive these sections formerly declared unconstitutional but remaining in the code. The Montana Supreme Court refused to buy the argument and held the statutes forever void. The change in the constitution did not revive the statutes. Hence the legislature should affirmatively clean these old statutes out of the code. If desired, new laws could, of course, be passed under the 1972 constitution to replace these old laws.

94-8-425, 94-8-426, 94-8-427. These sections state who is deemed a principal and provide a penalty and effective date for a 1909 law (later reenacted in 1915) which prohibited certain reporting, recording, or registering of bets or wagers on the outcome of any contest of speed or skill or endurance of any animal. The substance of this law has long since been repealed, but these sections were apparently overlooked.

It seems clear that the sections have no application to the current laws on gambling. First of all, the very language in each section, referring to "this act", when read with the section history, would reveal "this act" to be chapter 20, Laws 1909, and later chapter 55, Laws 1915. It could be argued that by reenactment in the 1921 recodification, or redesignation in the 1973 criminal code these sections were in effect reenacted and made applicable to all other sections reenacted or redesignated at the same time, i.e., the rest of the gambling laws. However, it is plain that the legislature did not consciously so intend. The language in 94-8-425 ". . . for the purpose of having bets or wagers made or reported or recorded or registered . . ." makes it clear that this section could only apply to the original act prohibiting such reporting or recording or registering. Also, each of the sections in 94-8-401 et. seq. which prohibits certain activity carries its own penalty provision, hence 94-8-426 cannot possibly be construed to be a general penalty provision applying to the entire part. And 94-8-427, providing for an immediate effective date, is in hopeless conflict with section 33, chapter 513, Laws 1973, providing an effective date for the criminal code of January 1, 1974.

These sections therefore, having no current application, are repealed.

Rep. Meloy said if the committee can come up with some way of restoring the tax base that was lowered last session, he would be glad to do something about it.

Rep. Jack Ramirez, District #64, Yellowstone County, chief sponsor of HB 422, said this act concerns Subchapter S corporations and this would bring Montana into compliance with the federal Tax Reform Act of 1976 by defining under what circumstances stock owned by spouses may be treated as though owned by one shareholder; by defining the type of trusts which may be counted as a shareholder; and by requiring that new shareholders reaffirm their election of the small business corporation option.

HOUSE BILL

422

Ray Dore, DOR, supports HB 422. He offers amendments on page 2, line 3, following "stock", strike "which" and insert "shall be treated as owned by one shareholder when it"; and on line 19, following "deaths", strike "shall be treated as owned by one shareholder".

Senator Carroll Graham, District #29, Big Horn County, sponsored SB 9. Dave Cogley explained this act which deals with the laws relating to gambling. It is intended to clean up some of the language in the gambling laws. This bill deserves some close scrutiny. It intends to clarify what a gambling game is. It is a recodification bill clarifying and reorganizing the state gambling laws. A summary is attached which explains the changes that were made.

SENATE BILL

9

There were no opponents.

The district court will have the authority over prosecution of card games gambling violations, and the city police and county attorney would enforce these laws.

Rep. W. Jay Fabrega, District #44, Cascade County, chief sponsor of HB 576, explained this bill amends the initiative "State Funded Homestead Tax Relief Act" requiring that the department of revenue calculate the rebate to each homeowner and issue a warrant to him upon receipt of the homeowner's application. Changes required to handle the Homestead Tax Refund Act would entail much additional work and equipment. DOR would mail 2 copies to the taxpayer, one for the DOR; the notice of tax relief and form necessary to be filled out and returned in order to receive the tax relief payment. This can be returned with the tax payment.

HOUSE BILL

576

Margaret Temple, President of the County Treasurers Association, supports HB 576. She said the owner would not have to declare this refund as an income unless he takes it as a deduction on his income tax bill. See her testimony.

May Jenkins, Montana Treasurers Association, Yellowstone County, said HB 141 was a nightmare. HB 576 would prove a very simple form and since this is a state refund, she doesn't think the county should be saddled with the job of the refunding process. See her testimony attached.

HB 340 as per attached amendments. After much discussion on "public lands" the motion carried unanimously. The original motion was changed to HB 340 AS AMENDED DO PASS. Motion carried with Rep. Underdal voting No.

HOUSE BILL 168 - Rep. Fabrega asked for reconsideration of the committee's action on HB 168, and that it be given a DO PASS. He made a motion to add amendments; this motion failed 5-7. Rep. Williams made a substitute motion to recommend HB 168 DO NOT PASS. Motion failed 6-7. So original motion of HB 168 DO PASS recommendation was adopted 7-6.

HOUSE BILL 362 - Rep. Fabrega moved that HB 362 DO PASS. He further moved to amend HB 362. Reps. Uhde and Huennekens voted No. Motion carried. Rep. Fabrega then moved that HB 362 AS AMENDED DO PASS. Motion failed 7-7. Rep. Sivertsen moved to recommend HB 362 DO NOT PASS. Motion failed 6-8. The committee will vote later.

HOUSE BILL 422 - Rep. Fabrega moved to recommend HB 422 DO PASS. He further moved to recommend HB 422 be amended according to proposed amendments. These amendments were unanimously adopted. Rep. Fabrega further moved that "shall be treated as owned by one shareholder" be stricken. Motion was unanimously adopted. He further moved to recommend that HB 422 AS AMENDED DO PASS. This motion was adopted unanimously by 13 members present.

HOUSE BILL 469 - Rep. Bertelsen moved to recommend HB 469 DO NOT PASS. This motion was unanimously adopted.

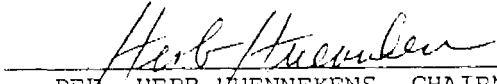
HOUSE BILL 507 - Rep. Fabrega moved to recommend HB 507 DO NOT PASS. Motion carried with Rep. Dassinger voting No. Rep. Dassinger had moved an amendment to have the date changed to "February 5, 1979", but this motion failed.

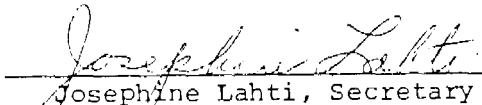
Rep. Dassinger took over chairmanship of the committee.

HOUSE BILL 474 - Rep. Huennekens moved that HB 474 DO PASS. Rep. Fabrega made a substitute motion that HB 474 DO NOT PASS. Motion carried with Rep. Williams voting No.

SENATE BILL 9 - Rep. Bertelsen moved that SB 9 BE CONCURRED IN. Motion carried unanimously.

Meeting adjourned at 11:45 a.m.


REP. HERB HUENNEKENS, CHAIRMAN


Josephine Lahti, Secretary

FORTY-FIFTH LEGISLATIVE SESSION

1977

COMMITTEE ON JUDICIARY

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
S.B. 9	1-3-77	1-11-77	1-15-77			1-15-77			
S.B. 12	1-3-77	2-16-77	2-18-77			2-18-77			
S.B. 20	1-3-77	1-7-77	1-7-77			1-7-77			
S.B. 23	1-11-77	1-18-77	1-29-77		1-29-77				
S.B. 23	Rereferred 2-1-77	2-4-77				2-4-77			
S.B. 27	1-3-77	1-11 & 1-14-77	2-17-77			2-17-77			
S.B. 30	1-3-77	1-11, 1-13, 1-17-77	1-17-77			1-20-77			
S.B. 32	1-3-77	Duplicate of S.B. 40	2-10-77		2-10-77				
S.B. 33	1-3-77	1-11 & 1-14-77	2-17-77			2-17-77			
S.B. 34	1-3-77	1-17, 1-18, 1-28, 1-29-77	1-31-77			1-31-77			
S.B. 37	1-4-77	1-14-77	2-10-77			2-10-77			
S.B. 40	1-5-77	1-12-77	1-20-77	1-20-77					
S.B. 41	1-5-77	1-12 & 1-20-77	2-18-77			2-18-77			
S.B. 42	1-5-77	1-12 & 1-20-77	1-20-77	1-20-77					
S.B. 43	1-5-77	1-12 & 1-20-77	1-20-77			1-20-77			
S.B. 53	1-6-77	1-12 & 1-20-77	1-20-77	1-20-77					

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 11, 1977

Meeting of the Judiciary Committee was called to order by Chairman Jean Turnage on the above date in Room 442 of the State Capitol Building.

ROLL CALL: All members of the committee were present.

The following witnesses were present to testify:

Senator Carroll Graham - District 29
Dave Cogley, attorney - Legislative Council
Senator Chet Blaylock - District 35
Pat Hooks, attorney - Townsend, Montana
Margaret S. Davis, Helena - League of Women Voters of Montana
Larry Weinberg, attorney - Legislative Council
John Hanson - Comm. of Campaign Finances and Practices
Mike Pichette - Montana Democratic Party

CONSIDERATION OF SENATE BILL 9:

Senator Graham told the committee that he had been picked by the Legislative Council to carry this recodification bill. He then introduced Dave Cogley, an attorney with the Legislative Council, who went over the bill section by section for the committee and also noted the changes which they had made, their reasons for doing so, and answered questions of the committee.

Chairman Turnage thanked him for having appeared on this bill. He then asked him if he was satisfied that what has been done in the drafting of this bill will not liberalize or enlarge gambling. Dave Cogley said that there is no intent to open the door to enlarge legalized gambling in the drafting of this bill.

The Chairman then asked the Judiciary Committee's attorney, Lon Maxwell, if he felt this bill was satisfactory. He said that Dave Cogley had pretty well covered the ground in this bill and that he does not feel this bill will liberalize the state gambling laws.

CONSIDERATION OF SENATE BILL 33:

Pat Hooks, attorney, appeared as a proponent of this bill, but wished to have it amended on page 21, section 35, line 25, by striking ", or ballot issue". He presented the committee with a copy of Judge Battin's Amended Opinion & Order in the case of C & C Plywood, Corp. et al. v. John N. Hanson, Commissioner of Campaign Finances and Practices of the State of Montana. (Exhibit #1)

Margaret Davis, Helena, representing the League of Women Voters of Montana, appeared as a proponent of the bill with the words "or ballot issue" left in on page 21, section 35, line 25. She presented a written statement to the committee on S.B. 33. (Exhibit #2).

ROLL CALL

JUDICIARY

COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date

11/11/77

[illegible]

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 15, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, at 9:30 a.m. in Room 442 of the State Capitol Building on the above date.

ROLL CALL:

All members were present with the exception of Senator Roberts who was excused.

CONSIDERATION OF SENATE BILL 9:

Chairman Turnage placed S.B. 9 before the committee for discussion as it had been heard on January 11, 1977.

DISPOSITION OF SENATE BILL 9:

Senator Towe moved to amend page 15, section 22, lines 1 through 11, by striking section 22 in its entirety and renumbering the subsequent sections. The motion carried unanimously.

Senator Towe then moved to amend page 16, section 23, line 14, following the word "city" by inserting a "," and striking the word "or", and to further amend line 14 following the word "town" by inserting ", county, or other political subdivision of the state". The motion carried unanimously.

Senator Towe moved to amend page 17, section 27, line 11, following "94-8-403," by inserting "94-8-413,". Motion carried.

Senator Towe then moved that Senate Bill 9, as so amended, DO PASS. The motion carried unanimously.

CONSIDERATION OF SENATE BILL 30:

Joan Mayer, attorney with the Legislative Counsel, resumed her explanation of this recodification bill beginning with section 34 as that is where the committee had to stop on Friday, January 14, 1977.

Senator Towe moved to strike section 38, pages 49 and 50, in its entirety and renumber the subsequent sections accordingly. The motion carried unanimously.

Senator Towe then moved to strike section 40, page 52, in its entirety and renumber the following sections accordingly. This motion carried unanimously.

Senator Towe moved to strike section 44 on page 57, lines 11 through 25, in its entirety and renumber the following sections accordingly. The motion carried unanimously.

STANDING COMMITTEE REPORT

January 17, 1977

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 9

Respectfully report as follows: That SENATE Bill No. 9,
the introduced bill, be amended as follows:

1. Amend page 15, section 22, lines 1 through 11.

Strike: section 22 in its entirety

Renumber: all subsequent sections

2. Amend page 16, section ~~22~~²⁴, line 14.

Following: "city"

Insert: ", "

Strike: "or"

Following: "town"

Insert: ", county, or other political subdivision of the state"

3. Amend page 17, section 27, line 11.

Following: "94-8-403,"

Insert: "94-8-413,"

AND AS SO AMENDED, DO PASS.

~~XXXXXX~~
50-1468

SENATE BILL NO. 9

INTRODUCED BY GRAHAM

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
REVISION OF LAWS RELATING TO GAMBLING."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 62-706, R.C.M. 1947, is amended to
read as follows:

"62-706. Gambling on cash basis. (1) In every ~~gambling~~
~~game-conducted-pursuant-to-any-gambling-law-of-the-state~~
~~authorized card game~~ the consideration paid for the chance
to play shall be strictly cash. Every participant must
present the money with which he intends to play the ~~gambling~~
game at the time the game is played. No check, credit card,
note, ~~or other evidence of indebtedness~~ ~~shall~~
~~may~~ be offered or accepted as part of the price of
participating in a ~~gambling card game~~ or as payment of a
~~gambling debt incurred therein.~~

(2) No action based on ~~such~~ a ~~gambling~~ debt is
maintainable in a court of this state."

Section 2. Section 62-707, R.C.M. 1947, is amended to
read as follows:

"62-707. Local governing bodies may issue licenses.

(1) Any city, town, or county may issue licenses for the

~~gambling~~ games provided for in this act to be conducted on
premises which have been licensed for the sale of liquor,
beer, food, cigarettes, or any other consumable products.
Within the cities or towns, such licenses may be issued by
the city or town council or commission. Licenses for games
conducted on premises outside the limits of any city or town
may be issued by the county commissioners of the respective
counties. When a license has been required by any city,
town, or county, no ~~gambling~~ game as provided for in this
act shall be conducted on any premises which have been
licensed for the sale of liquor, beer, food, cigarettes, or
any other consumable product without such license having
first been obtained.

(2) Any governing body may charge an annual license
fee for each license so issued under this act, which license
fee, if any, shall expire on June 30 of each year, and such
fee shall be prorated.

(3) Any license issued pursuant to this act shall be
deemed to be a revocable privilege, and no holder thereof
~~shall may~~ acquire any vested rights therein or thereunder."

Section 3. Section 62-708, R.C.M. 1947, is amended to
read as follows:

"62-708. Governing body may establish regulations. The
governing body authorized to issue gambling licenses
pursuant to this act ~~shall have the authority to may~~

REFERENCE, BILL
Second Printing

1 establish by ordinance or resolution, regulations governing
2 the qualifications for and the issuing, suspension, and
3 revocation of such gambling licenses. These regulations, in
4 addition to any other requirements, shall provide that no
5 license shall may be issued to:

6 1=(1) * a person who has been convicted of being the
7 keeper or is keeping a house of ~~+++fame~~ prostitution;

8 2=(2) * a person who has been convicted of pandering
9 or other crime or misdemeanor opposed to decency and
10 morality, under the laws of the federal government or any
11 state of the United States;

12 3=(3) * a person whose license issued under this act
13 has been revoked for cause;

14 4=(4) * a person who at the time of application for
15 renewal of any license issued hereunder would not be
16 eligible for such license upon a first application;

17 5=(5) * a person who is not a citizen of the United
18 States and who has not been a resident of the state of
19 Montana for at least ~~one~~ one year immediately preceding the
20 filing of the application for license;

21 6=(6) * a person who is not the owner and operator of
22 the business. Additional regulations may also be adopted for
23 the purpose of the protection of the public health, welfare,
24 and safety of the citizens of the state of Montana and to
25 assure compliance with the intent of this act."

1 Section 4. Section 62-709, R.C.M. 1947, is amended to
2 read as follows:

3 "62-709. Minors may not participate. No person under
4 the age of ~~eighteen~~ 18 years shall ~~may~~ be permitted to
5 participate in any card game or games of chance held,
6 operated, or conducted pursuant to this act."

7 Section 5. Section 62-710, R.C.M. 1947, is amended to
8 read as follows:

9 "62-710. Cheating unlawful. It shall be unlawful to
10 conduct or participate in a gambling card game authorized by
11 this act ~~or any other gambling law~~ in any manner which
12 results in cheating, misrepresentation, or other such
13 disreputable tactics which distract from a fair and equal
14 chance for all participants or which otherwise affects the
15 outcome of the gambling game."

16 Section 6. Section 62-713, R.C.M. 1947, is amended to
17 read as follows:

18 "62-713. ~~Venue~~ Jurisdiction. ~~Venue~~ Jurisdiction for
19 all cases involving violations of this act is in the
20 district court."

21 Section 7. There is a new R.C.M. section that reads as
22 follows:

23 Bingo and raffles authorized. Conducting or
24 participating in games of chance as defined in 62-716 and in
25 accordance with the provisions of ~~this act~~ 62-715 THROUGH

1 ~~62-726~~ is lawful.

2 Section 8. Section 62-719, R.C.M. 1947, is amended to
3 read as follows:

4 "62-719. Local governing bodies may issue licenses.

5 (1) Any city, town₁ or county may issue licenses for the
6 gambling games of chance provided for in this act to be
7 conducted on premises which have been licensed for the sale
8 of liquor, beer, food, cigarettes₁ or any other consumable
9 products. Within the cities or towns, such licenses may be
10 issued by the city or town council or commission. Licenses
11 for games conducted on premises outside the limits of any
12 city or town may be issued by the county commissioners of
13 the respective counties. When a license has been required by
14 any city, town₁ or county, no gambling game of chance as
15 provided for in this act ~~shall~~ may be conducted on any
16 premises which have been licensed for the sale of liquor,
17 beer, food, cigarettes₁ or any other consumable product
18 without such license having first been obtained.

19 (2) Any governing body may charge an annual license
20 fee for each license so issued under this act, which license
21 fee, if any₁ shall expire on June 30 of each year, and such
22 fee shall be prorated.

23 (3) Any license issued pursuant to this act shall be
24 deemed considered to be a revocable privilege, and no holder
25 thereof ~~shall~~ may acquire any vested rights therein or

1 thereunder."

2 Section 9. Section 62-720, R.C.M. 1947, is amended to
3 read as follows:

4 "62-720. Governing body may establish regulations. (1)
5 The governing body authorized to issue gambling licenses
6 pursuant to this act ~~shall have the authority to~~ may
7 establish by ordinance or resolution regulations governing
8 the qualifications for the issuing issuance, suspension₁ and
9 revocation of such gambling licenses. These regulations, in
10 addition to any other requirements, shall provide that no
11 license ~~shall~~ may be issued to:

12 ~~(1)(a)~~ (1)(a) A person who has been convicted of being the
13 keeper or is keeping a house of ~~+++feme+ prostitution~~

14 ~~(2)(b)~~ (2)(b) A person who has been convicted of pandering
15 or other crime or misdemeanor opposed to decency and
16 morality, under the laws of the federal government or any
17 state of the United States;

18 ~~(3)(c)~~ (3)(c) A person whose license issued under this act
19 has been revoked for cause;

20 ~~(4)(d)~~ (4)(d) A person who at the time of application for
21 renewal of any license issued hereunder would not be
22 eligible for such license upon a first application;

23 ~~(5)(e)~~ (5)(e) A person who is not a citizen of the United
24 States and who has not been a resident of the state of
25 Montana for at least ~~one~~ (1) year immediately preceding the

1 filing of the application for license;

2 ~~(6)(f)~~ * a person who is not the owner and operator of
3 the business.

4 12 Additional regulations may also be adopted for the
5 purpose of the protection of the public health, welfare and
6 safety of the citizens of the state of Montana and to assure
7 compliance with the intent of this act."

8 Section 10. Section 62-724, R.C.M. 1947, is amended to
9 read as follows:

10 "62-724. Gambling on cash basis. (1) In every gambling
11 game ~~of chance conducted pursuant to any gambling law of the~~
12 ~~state~~ the consideration paid for the chance to play shall be
13 strictly cash. Every participant must present the money with
14 which he intends to play the gambling game at the time the
15 game is played. No check, credit card, note, ~~or IOU~~, or
16 other evidence of indebtedness shall be offered or accepted
17 as part of the price of participation in ~~a gambling~~ such
18 game or as payment of a gambling debt incurred therein.

19 (2) No action based on such a gambling debt is
20 maintainable in a court of this state."

21 Section 11. Section 62-725, R.C.M. 1947, is amended to
22 read as follows:

23 "62-725. Cheating unlawful. It shall be unlawful to
24 conduct or participate in a gambling game of chance
25 authorized by this act ~~or any other gambling law~~ in any

1 manner which results in cheating, misrepresentation, or
2 other such disreputable tactics which distract from a fair
3 and equal chance for all participants or which otherwise
4 affects the outcome of the gambling game."

5 Section 12. There is a new R.C.M. section that reads
6 as follows:

7 Sports pools authorized. Conducting or participating in
8 sports pools as defined and governed in ~~this act~~ 62-727
9 THROUGH 62-736 is lawful.

10 Section 13. Section 62-729, R.C.M. 1947, is amended to
11 read as follows:

12 "62-729. Gambling on cash basis. (1) In every gambling
13 ~~game conducted pursuant to any gambling law of the state~~
14 sports pool the consideration paid for the chance to play
15 shall be strictly cash. Every participant must present the
16 money with which he intends to play the gambling game at the
17 time the game pool is played entered. No check, credit card,
18 note, ~~or IOU~~, or other evidence of indebtedness shall be
19 offered or accepted as part of the price of participating in
20 a gambling game ~~or as payment of a gambling debt pool~~.

21 (2) No action based on a gambling debt incurred in a
22 sports pool is maintainable in a court of this state."

23 Section 14. Section 62-730, R.C.M. 1947, is amended to
24 read as follows:

25 "62-730. Minors may not participate. No person under

1 the age of ~~eighteen--(18) years shall~~ may be permitted to
2 participate in any ~~game or games of chance~~ sports pool held,
3 operated, or conducted pursuant to this act."

4 Section 15. Section 62-731, R.C.M. 1947, is amended to
5 read as follows:

6 "62-731. Cheating unlawful. It shall be unlawful to
7 conduct or participate in a ~~gambling--game~~ sports pool
8 authorized by this act ~~or any other gambling law~~ in any
9 manner which results in cheating, misrepresentation, or
10 other such disreputable tactics which distract from a fair
11 and equal chance for all participants or which otherwise
12 affects the outcome of the ~~gambling--game~~ pool."

13 Section 16. Section 62-735, R.C.M. 1947, is amended to
14 read as follows:

15 "62-735. Venue ~~Jurisdiction~~. Venue Jurisdiction for all
16 violations of this act is in the district court."

17 Section 17. Section 94-8-301, R.C.M. 1947, is amended
18 to read as follows:

19 "94-8-301. Lottery defined. A lottery is any scheme
20 for the disposal or distribution of property by chance,
21 among persons who have paid or promised to pay any valuable
22 consideration for the chance of obtaining such property or a
23 portion of it, or for any share or interest in such
24 property, upon any agreement, understanding, or expectation
25 that it is to be distributed or disposed of by lot or

1 chance, whether called a lottery, rafferty, or gift
2 enterprise, or by whatever name the same may be known."

3 Section 18. Section 94-8-302, R.C.M. 1947, is amended
4 to read as follows:

5 "94-8-302. Drawings ~~for prizes or premiums not~~
6 ~~contemplated by act when Application~~. This act part shall
7 not apply to the provisions of 62-715 through 62-726 or to
8 the giving away of cash or merchandise attendance prizes or
9 premiums by public drawings at agricultural fairs or rodeo
10 associations in this state, and the county fair
11 commissioners of agricultural fairs or rodeo associations in
12 this state may give away at such fairs cash or merchandise
13 attendance prizes or premiums by public drawings."

14 Section 19. Section 94-8-401, R.C.M. 1947, is amended
15 to read as follows:

16 "94-8-401. Gambling games prohibited -- penalty --
17 ~~license fees for card tables. Every person who deals or~~
18 ~~carries or opens or causes to be opened, or who conducts~~
19 ~~or causes to be conducted, operates or runs, either as~~
20 ~~principal, agent, owner or employee, whether for hire or~~
21 ~~not, any game of monte, donkey, fan-tan, tany, studhorse~~
22 ~~poker, craps, seven and a half, twenty-one, faro, roulette,~~
23 ~~pangeni or pangene, hokey-pokey, draw poker, or the game~~
24 ~~commonly known as round the table poker, or any banking or~~
25 ~~percentage game, or any game commonly known as sure thing~~

1 gamey or any game of chance played with cards dice or any
 2 device whatsoever or who runs or conducts or causes to be
 3 run or conducted or keeps any slot machine punchboard or
 4 other similar machine or device or permits the same to be
 5 run or conducted for money checks credits or any
 6 representative of value or any property or thing
 7 whatsoever or any person owning or in charge of any cigar
 8 store drugstore or other place of business or any place
 9 where drinks are sold or served who permits any of the
 10 games prohibited in this section to be played in or about
 11 such cigar store drugstore or other place of business or
 12 permits any slot machine punchboard or similar device to
 13 be kept therein or any person or persons who cond. at any
 14 bucketshop where stocks or securities of any kind are sold
 15 on margins and every person who plays or bets at or against
 16 said prohibited games or devices except as hereinafter
 17 provided is guilty of a misdemeanor and shall be punishable
 18 by a fine of not less than one hundred dollars (\$100.00) or
 19 nor more than one thousand dollars (\$1000.00) and may be
 20 imprisoned for not less than three (3) months nor more than
 21 one (1) year or by both such fine and imprisonment
 22 [provided] however that it shall be lawful for cigar
 23 stores fraternal organizations charitable organizations
 24 drugstores and other places of business upon the payment of
 25 a license fee therefor to the county treasurer in the sum of

1 ten dollars (\$10.00) annually per table used or operated in
 2 such place of business to maintain and keep for the use and
 3 pleasure of their customers and patrons card tables and
 4 cards with which and at which such games as rummy whist
 5 bridge whist blackjack euchre pinochle pongo or
 6 pango seven up hearts freeze out casino and
 7 cribbage five hundred penny ante domino high five and
 8 checkers may be played for pastime and amusement by
 9 customers who are not minors and for the maintenance of
 10 which a charge may be made to be paid by the users by the
 11 purchase of trade checks which must be redeemable in
 12 merchandise at the going retail price of such merchandise
 13 which is the stock in trade of such business and that
 14 places of business may upon the payment of a license fee
 15 therefor to the county treasurer in the sum of ten dollars
 16 (\$10.00) annually exhibit for use and sale to all customers
 17 not minors a trade stimulator such as putt boards and
 18 ticket boards where each board so used returns to the owner
 19 or business not to exceed the going retail price of the
 20 goods disposed of and sold and disposed of through the use
 21 of the same and which goods sold and disposed of through
 22 the use of the same must not be other than the goods
 23 constituting the usual stock in trade of the business using
 24 the same} Except as otherwise provided by law a person who
 25 engages in gambling in any form with cards dice or other

1 ~~implements or devices of any kind wherein anything valuable~~
 2 ~~is MAY BE wagered upon the outcome or who keeps any~~
 3 ~~establishment, place, equipment, or apparatus for such~~
 4 ~~gambling or any agents or employees for such purpose is~~
 5 ~~guilty of a misdemeanor and is punishable by a fine of not~~
 6 ~~less than \$100 or more than \$1,000 or imprisonment not less~~
 7 ~~than 3 months or more than 1 year or by both such fine and~~
 8 ~~imprisonment."~~

9 Section 20. Section 94-8-404, R.C.M. 1947, is amended
 10 to read as follows:

11 "94-8-404. Possession of gambling implements
 12 prohibited. Any person who has in his possession, or under
 13 his control, or who permits to be placed, maintained, or
 14 kept in any room, space, inclosure, or building, owned,
 15 leased, or occupied by him, or under his management or
 16 control, any faro box, faro layout, roulette wheel, roulette
 17 table, crap table, slot-machine, PUNCHBOARD, or any machine
 18 or apparatus of the kind mentioned in ~~the preceding section~~
 19 ~~of this act, 94-8-401~~ is punishable by a fine of not less
 20 ~~than one hundred nor \$100 or more than one thousand dollars,~~
 21 \$1,000 and may be imprisoned for not less than three 3
 22 months ~~nor or~~ more than one 1 year in the discretion of the
 23 court, ~~provided, however,~~ that this section shall not apply
 24 to a public officer, or to a person coming into possession
 25 thereof in or by reason of the performance of an official

1 duty and holding the same to be disposed of according to
 2 law."

3 Section 21. Section 94-8-411, R.C.M. 1947, is amended
 4 to read as follows:

5 "94-8-411. Duty of magistrate to retain gambling
 6 implement or apparatus for trial. The magistrate before whom
 7 any machine, apparatus, or instrument is brought pursuant to
 8 ~~the preceding section 94-8-410~~ must, if there be is a
 9 prisoner and if he ~~shall hold~~ holds such prisoner, cause the
 10 machine, apparatus, or instrument to be delivered to the
 11 county attorney to be used as evidence on the trial of such
 12 prisoner. If there be is no prisoner, or if the magistrate
 13 does not hold the prisoner, ~~he the magistrate~~ must cause the
 14 immediate and public destruction of the machine, apparatus,
 15 or instrument in the his own presence ~~of said magistrate~~. No
 16 person owning or claiming to own any such machine,
 17 apparatus, or instrument so destroyed, ~~shall have~~ has any
 18 right of action against any person or against the state,
 19 county, or city for the value of such article, or for
 20 damages. It ~~shall be~~ is the duty of the county attorney to
 21 produce such articles in court on the trial of the case. It
 22 ~~shall be~~ is the duty of the trial court, after the
 23 disposition of the case, and whether the defendant be is
 24 convicted, acquitted, or fails to appear for trial, to cause
 25 the immediate and public destruction of any such article by

1 the sheriff or any other officer or person designated by the
2 court."

3 ~~Section 22. Section 94-8-413, R.C.M. 1947, is amended~~
4 ~~to read as follows:~~

5 ~~"94-8-413. Authority to break and enter buildings~~
6 ~~where games are probably being played. Every sheriff,~~
7 ~~constable and public peace officers having probable cause to~~
8 ~~believe that any room, tent or apartment is being used as a~~
9 ~~room, tent or apartment for the playing or conducting of~~
10 ~~any of the games mentioned in this act shall have authority~~
11 ~~to may break open any door or opening into any such room,~~
12 ~~tent or apartment with or without a warrant of arrest for~~
13 ~~the purpose of arresting the offenders against this act."~~

14 Section 22. Section 94-8-422, R.C.M. 1947, is amended
15 to read as follows:

16 "94-8-422. Lessor of buildings used for gambling
17 purposes treated as principal. Whenever premises are
18 occupied for the doing of any of the things, or running any
19 of the games prohibited by this act part, the lease or
20 agreement under which they are so occupied shall be
21 absolutely void at the instance of the lessor, who may at
22 any time obtain possession by civil action, or by action of
23 ~~forcible unlawful~~ detainer, ~~and if~~ If any person ~~lease~~
24 leases premises for any such purpose, or knowingly permits
25 them to be used or occupied for such purpose or purposes,

1 or, knowing them to be so occupied or used, fails
2 immediately to prosecute in good faith an action or
3 proceeding for the recovery of the premises, such lessor
4 shall be considered in all cases, civil and criminal, as a
5 principal in running the games or doing the things run or
6 done in such building, in violation of this act part and
7 shall be dealt with and punished accordingly."

8 Section 23. Section 94-8-424, R.C.M. 1947, is amended
9 to read as follows:

10 "94-8-424. Ordinances concerning gambling in conflict
11 with this act void. Upon the passage of this act, all
12 ordinances and parts of ordinances of cities and towns in
13 this state regarding gambling and gambling houses shall be
14 inoperative and void, and thereafter no No ordinance
15 regarding gambling or gambling houses ~~shall~~ may be passed by
16 any city, or town, COUNTY, OR OTHER POLITICAL SUBDIVISION OF
17 THE STATE except in compliance with 62-701 through 62-736."

18 Section 24. Section 94-8-429, R.C.M. 1947, is amended
19 to read as follows:

20 "94-8-429. Slot machine defined. A slot machine is
21 hereby defined as a machine operated by inserting a coin,
22 token, chip, or trade check, or paper currency therein by
23 the player and from the play of which he obtains, or may
24 obtain, money, checks, chips, or tokens, or paper currency
25 redeemable in money. Merchandise vending machines where the

1 element of chance does not enter into their operation are
2 not within the provisions of this act part."

3 Section 25. Section 94-8-430, R.C.M. 1947, is amended
4 to read as follows:

5 "94-8-430. Person or persons defined. In addition to
6 their ordinary meaning, the word "person" or "persons" as
7 used in this act part, ~~shall include~~ includes both natural
8 and artificial persons and all partnerships, corporations,
9 associations, clubs, fraternal orders, and societies,
10 including religious, fraternal, and charitable
11 organizations."

12 SECTION 26. SECTION 94-8-431, R.C.M. 1947, IS AMENDED
13 TO READ AS FOLLOWS:

14 "94-8-431. Penalty for possession or permitting use of
15 slot machine. Any person, partnership, club, society,
16 fraternal order, corporation, ~~co-operative~~ cooperative
17 association or any other person, individual, or organization
18 who violates any of the provisions of this act or who
19 permits the use of any slot machine, as herein defined, on
20 any place or premises owned, occupied, or controlled by him
21 or it, ~~shall be~~ is guilty of a misdemeanor and ~~shall be~~ is
22 punishable by a fine of not less than ~~one hundred dollars~~
23 ~~{ \$100.00 }~~ or more than ~~five hundred dollars~~ { \$500.00 },
24 ~~\$1,000~~ or by imprisonment in the county jail for not less
25 than ~~thirty~~ { 30 } ~~days~~ or 3 months or more than ~~six~~ { 6 }

1 ~~months~~ 1 year or by both such fine and imprisonment."

2 Section 27. Repealer. Sections 84-5703 through
3 84-5719, 94-8-402, 94-8-403, 94-8-413, 94-8-425, 94-8-426,
4 and 94-8-427, R.C.M. 1947, are repealed.

-End-